IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

MFA.No. 223 of 2000()

AGAINST THE AWARD IN OPMV.3009/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE DATED 12.2.99)

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APPELLANT/PETITIONER:

RAJATHA MAHESH P.T.,
AGED 21 YEARS,
S/O. P.T. BALAN,
MANDOTHA THAZHAM HOUSE,
P.O. KARUVASSERI,
KUNDUPARAMBA, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/RESPONDENTS:

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1. P. DEVADASAN,
S/O. KANDANKUTTY,
ANDIKAVIL,
GURUVAYOORAPPAN COLLEGE,
KOZHIKODE.

* 2. C.K. MUHAMMEDKOYA (DELETED)
S/O. AVARANKUTTY,
THEKKEPUTHIYEDATH,
OLAVANNA AMSOM DESOM,
NEAR ESI CENTRE.

* (THE NAME OF SECOND RESPONDENT IS DELETED FROM PARTY ARRAY AT THE RISK OF THE APPELLANT VIDE ORDER DATED 12.2.07 IN I.A.340/07)

3. ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, CALICUT.

4. K. LASIK,
S/O. ASSAN HAJI,
RAHMANIYA, KALLAI P.O.,
CALICUT – 3.

5. UNITED INDIA INSURANCE CO.LTD.,
KALLARI ROAD, KOZHIKODE.

BY ADV. SRI.P.JAYASANKAR- R5
SRI.S.MAMMU-R3.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

M.F.A.NO.223 OF 2000

DATED THIS THE 20th DAY OF FEBRUARY, 2007

JUDGMENT

A consolidated notice on the application for condonation of delay and M.F.A.223/2000 for consideration for admission were issued. Notice was served and service complete.

2. Learned Counsel appearing for appellant and respondents were heard.

3. Appellant was the claimant before Motor Accident Claims Tribunal, Kozhikode in O.P.(MV)3009/92. He claimed compensation contending that he sustained injuries in a motor accident on 20.2.1992 at 11 A.M. at Chalapuram in Kozhikode while he was travelling by bus KLM 5464 from Kozhikode to Pokkunnu. According to appellant, he sustained injuries in the accident caused by negligent driving of second respondent, driver of bus KRZ 6941, which came from opposite direction in a rash and negligent manner and dashed against the bus in which he was travelling. Tribunal as per Award dated, 12.2.1999 dismissed the petition for the reason that appellant did not adduce any evidence, though it was posted for evidence.

4. Case of appellant is that, he could not appear on that day

as his counsel has mistakenly noted dated as 15.3.99 instead of 12.2.1999 and though he filed an application before the tribunal to restore the case, it was dismissed.

4. On hearing learned Counsel appearing for appellant and respondents, interest of justice warrants that appellant is to be granted an opportunity to prove his case.

Appeal is allowed. O.P.(MV) 3009/92 on the file of Motor Accident Claims Tribunal, Kozhikode is set aside and restored to file. Tribunal is directed to dispose the same on merits after affording an opportunity to the parties to adduce evidence. It is made clear that appellant is not entitled to claim any interest for the period from 17.2.2000 till 12.10.06 as held by this Court as per order dated, 12.10/06. Parties are directed to appear before the Motor Accident Claims Tribunal, Kozhikode on 3.4.07.

M.SASIDHARAN NAMBIAR,JUDGE

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